

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45

COMMENTS

The National Rural Telecom Association (NRTA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the United States Telecom Association (USTA), (collectively the Associations) hereby submit their joint comments on the Recommendation of the Federal-State Joint Board on Universal Service (Recommendation) solicited by the Commission in its Further Notice of Proposed Rulemaking in the above-captioned proceeding.¹

The Joint Board forwarded the Rural Task Force Recommendation to the Commission,² stating that it constituted a good foundation for implementing a rural universal service plan that benefits consumers and provides a stable environment for rural carriers to invest in rural America. The Joint Board urged the Commission to adopt the Recommendation as a foundation for implementing a rural universal service plan.

The Associations filed comments with the Joint Board supporting the Rural Task Force Recommendation, stating that the specific recommendations constitute reasonable

¹ 66 Fed. Reg. 7867 (Jan. 26, 2001) (Further Notice).

² Recommended Decision, CC Docket No. 96-45, FCC 00J-4, released Dec. 22, 2000 (Recommended Decision).

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approaches to the universal service needs of rural carriers and the areas they serve. The Associations further maintained that the Recommendation was complementary to the principles contained in the Petition for Rulemaking of the LEC Multi-Association Group (the MAG Plan)³ and that interstate universal service and access charge reform for rural carriers should be considered concurrently. In addition, the Associations supported the Rural Task Force position that its Recommendation be implemented “immediately.”⁴ However, in their comments, the Associations identified specific portions of the Recommendation that differ with their filed MAG Plan and advocated that, in such instances, the specific proposals contained in the MAG Plan should be adopted.

The Associations continue to support adoption of a comprehensive approach to universal service, access charge reform and incentive regulation for rural carriers, and agree with the Joint Board that the Rural Task Force Recommendation is a good foundation for implementing rural universal service reform. The MAG Plan includes universal service reforms that are similar to the Rural Task Force Recommendation, but some differences exist in policy and extent of detail, and the MAG Plan offers a more comprehensive approach to access charge reform, incentive regulation, and universal service. Where the Rural Task Force Recommendation is consistent with the MAG Plan, it should be adopted. Where the MAG Plan provides more specific or different proposals, the MAG proposals should be adopted, particularly where they address access

³ *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Notice of Proposed Rule, 66 Fed. Reg. 7725 (Jan. 25, 2001) (MAG Notice).

⁴ Rural Task Force Recommendation at 39.

charge reform issues.⁵ Access charge reform issues would be more appropriately addressed in the MAG Plan proceeding and not in this proceeding considering the Rural Task Force Recommendation.⁶

The Associations support the Commission's determination to consider the Rural Task Force Recommendation and the MAG Plan on the same comment cycle. This provides a vehicle for the Commission to evaluate these plans and adopt a solution to universal service and access charge reform for rural carriers and their customers in a comprehensive and coordinated manner. It is essential that the Commission adopt an integrated solution to these issues and eliminate the regulatory uncertainty that exists today.

The Commission raised several specific implementation issues related to the Rural Task Force Recommendation. The Associations provide the following comments on those issues:

Safety Valve Mechanism

The Commission seeks comment on the Rural Task Force's proposed safety valve mechanism that would provide additional support to rural carriers in post-transaction investment situations.⁷ With regard to references to an alleged proposed five percent cap, the Recommendation did not advocate a specific percentage for the cap. Rather, the five

⁵ NRTA, OPASTCO and USTA are part of the LEC Multi-Association Group that is filing comments on the MAG Plan in response to the MAG Notice concurrently with these comments. *See* Comments of the LEC Multi-Association Group on the MAG Plan filed February 26, 2001 (LEC MAG Comments).

⁶ *See* LEC MAG Comments at 2-3.

⁷ Further Notice at ¶ 5.

percent figure was used only illustratively in an appendix to the Rural Task Force Recommendation.⁸

The Associations support the MAG Plan's proposal to eliminate Section 54.305 of the Commission's rules.⁹ This so-called "parent trap" rule requires carriers that acquire telephone exchanges from unaffiliated carriers to receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges. Although the goal of this rule, when adopted, was to prevent carriers from "placing unreasonable reliance upon universal service support in deciding whether to purchase exchanges,"¹⁰ there is no indication that such "unreasonable reliance" has ever been a factor in such decisions. More importantly, as the Joint Board recently noted, the rule prevents the acquiring carrier from receiving an amount of support related to the costs of providing supported services in the transferred exchange.¹¹ Thus, the rule effectively discourages rural carriers from acquiring and upgrading inferior telephone exchange plant, contrary to the Act's universal service goals. By eliminating Section 54.305, the Commission will advance universal service objectives.

⁸ See Rural Task Force Recommendation at 30.

⁹ 47 C.F.R. § 54.305.

¹⁰ *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, 8942-43 (1997).

¹¹ *Federal-State Joint Board on Universal Service*, Recommended Decision, 15 FCC Rcd 14714, 14723-14724 (2000).

Support for Catastrophic Events

The Commission requests comment on whether incumbent carriers' ability to adjust their support levels under the Rural Task Force Recommendation to recover costs associated with catastrophic events should be limited by the availability of support from other sources.¹² The Associations strongly believe that the catastrophic provisions contained in the Rural Task Force Recommendation are necessary and should not be limited. The costs caused by catastrophic events are now recoverable through the universal service fund to the extent that they are not otherwise recoverable from mechanisms such as insurance. Recovery from disasters that enables rural carriers to rebuild their local networks is a fundamental tenet of the universal service program.

Rural carriers' need for funding and their limited ability to raise funds is no different whether the carrier's network must be upgraded due to technological developments or rebuilt because of a disaster. Thus, the catastrophic relief provision of the Rural Task Force Recommendation is necessary and fundamental to rural universal service reform. That provision is also necessary because the Rural Task Force Recommendation's frozen per-line support provision otherwise could act to limit the ability of rural carriers to recover from catastrophic events, since the per-line support would not include the costs of recovering from a disaster that occurred subsequent to freezing the level of support.

Several other factors regarding the catastrophic relief mechanism must be considered. Rural carriers generally carry insurance to cover losses from catastrophic events and will continue to do so. Other sources of funding, such as state and federal

¹² Further Notice at ¶ 6.

emergency grants, are not available to telephone companies generally. Even if outside sources of funding are available to a carrier, the Rural Task Force provision would limit cost recovery to costs that could not be recovered from other sources.

Safety Net Support Mechanism

The Commission raises questions concerning the safety net additive mechanism and whether it would allow rural carriers to recover excessive reimbursement on their incremental loop investment.¹³ The Associations note that a complicated safety net additive mechanism would be unnecessary were the Commission to simply adopt the MAG Plan proposal to remove the current “interim” cap on high cost loop support as well as the corporate operations expense limitation. The “interim” cap prevents rural carriers from obtaining all the support for which they qualify, contrary to the Act’s mandate that support be sufficient.

Nevertheless, the Associations believe that the Rural Task Force Recommendation contains adequate provisions to limit a carrier’s support so it would not recover more than 100 percent reimbursement on its incremental loop investment. The safety net would not allow payment for a study area to exceed the study area’s HCL fund support level if the indexed cap had not taken effect for a particular year. Furthermore, the safety net would only be in effect in a year that the indexed cap is in effect. Thus, a carrier would receive only a portion of the difference between the amount it would have received if the cap had not been in effect and its capped amount.

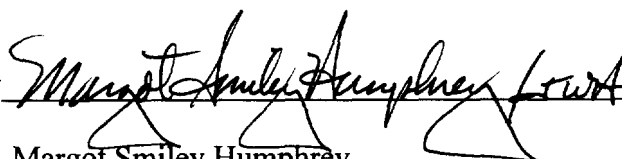
¹³ *Id.* at ¶ 7.

Conclusion

The Associations generally support the Rural Task Force Recommendation as containing reasonable proposals to address the universal service needs of rural carriers and the areas they serve. The Associations also advocate that the Commission consider the Rural Task Force Recommendation and the MAG Plan together on an expedited track. Substantively, in those instances where the MAG Plan is either more specific than or conflict with the Rural Task Force Recommendation, the Associations advocate adoption of the MAG provision.

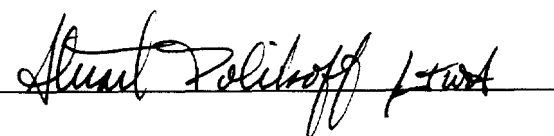
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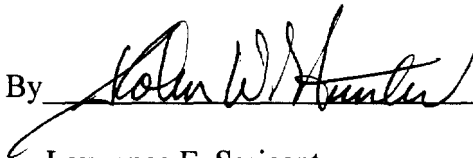
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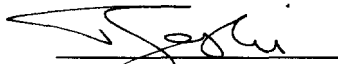
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I, Meena Joshi, do certify that on February 26, 2001, Reply Comments of The United States Telecom Association was either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the attached service list.



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